

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI

UNITED STATES OF AMERICA

PLAINTIFF

VS.

Case No. 2:98CR10-D

CURTIS GLINSEY

DEFENDANT

ORDER DENYING MOTION FOR RECUSAL

Presently before the court is the Defendant Curtis Glinsey's motion for recusal pursuant to 28 U.S.C. § 455(b)(1). Upon due consideration, the court finds that the motion should be denied.

28 U.S.C. § 455 states that "[a]ny . . . judge . . . of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned. He shall also disqualify himself . . . [w]here he has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding." 28 U.S.C. § 455(a)- (b)(1). Glinsey stated, in a vague and conclusory manner, he filed the motion "because of Judge Davidson's on the record statement during the plea hearing that demonstrated his personal knowledge and feeling concerning" certain evidence that Glinsey disputes. Glinsey does not cite any particular statement or even give any indication what he is referring to.

First, the court notes that Glinsey was sentenced in November of 1998. Since then he has unsuccessfully appealed the sentence and moved to vacate the sentence under 28 U.S.C. § 2255, and has not moved for recusal until this time. Even assuming, *arguendo*, that Glinsey did not waive his motion for recusal, he has clearly not met his burden of showing any inappropriate remarks or personal knowledge from the court warranting recusal.

After reading the transcript, the court is still unsure what statement Glinsey has in mind. However, the court assumes that Glinsey is referring to the comment during the plea hearing where the court spoke about the substance of a tape that Glinsey argues should have been excluded. The fact that the court listened to the evidence and was familiar with the amount of money allegedly involved with the

criminal act is not sufficient for recusal. All motions and issues regarding suppression of evidence have been litigated. Section 455(b)(1) requires "extra-judicial" knowledge or bias concerning the facts and parties; simply being familiar with the litigation history is not what the statute contemplates. United States v. Outler, 659 F.2d 1036, 1312 (5th Cir. 1981).

THEREFORE, it is hereby ORDERED that the Defendant's motion for recusal (docket entry 111) is denied.

SO ORDERED, this the _____ day of October 2001.

Chief Judge
